

Order

Michigan Supreme Court
Lansing, Michigan

April 13, 2012

Robert P. Young, Jr.,
Chief Justice

143663

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

JOSEPH PALETTA and SHELLY PALETTA,
Plaintiffs-Appellees,

v

SC: 143663
COA: 298238
Oakland CC: 2008-093717-NO

OAKLAND COUNTY ROAD COMMISSION,
Defendant-Appellant,
and

SUPREME SWEEPING SERVICES, INC.,
Defendant.

On April 5, 2012, the Court heard oral argument on the application for leave to appeal the July 21, 2011 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.302(H)(1). In lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals. The accumulation of gravel on the paved roadway was not actionable under the highway exception to the governmental tort liability act (MCL 691.1402) because an accumulation of gravel, whether natural or otherwise, does not implicate the defendant's duty to maintain the highway in "reasonable repair." MCL 691.1402(1); *Nawrocki v Macomb Co Rd Comm'n*, 463 Mich 143, 160 (2000); *Estate of Buckner v City of Lansing*, 480 Mich 1243 (2008). We REMAND this case to the Oakland Circuit Court for entry of an order of summary disposition in favor of the Oakland County Road Commission.

CAVANAGH, MARILYN KELLY, and HATHAWAY, JJ., would deny leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 13, 2012

Clerk